

(1) Take administrative notice of matters that are generally known or are capable of confirmation by resort to sources whose accuracy cannot reasonably be questioned.

(2) Remand a matter to the Component with instructions to provide additional information.

APPENDIX F TO PART 282—REQUESTS FOR AN ADVANCE DECISION

(a) *Who May Request an Advance Decision.* A disbursing or certifying official or the Head of a Component may request an advance decision on a question involving:

(1) A payment the disbursing official or Head of the Component shall make; or

(2) A voucher presented to a certifying official for certification.

(b) *Who May Render an Advance Decision.* The following officials are authorized to render an advance decision concerning the matters indicated:

(1) The Secretary of Defense for requests involving claims under:

(i) 31 U.S.C. 3702 for Uniformed Services members' pay, allowances, travel, transportation, retired pay, and survivor benefits, and by carriers for amounts collected from them for loss or damage to property they transported at Government expense.

(ii) 31 U.S.C. 3702 that are not described in paragraph (b)(1)(i) of this Appendix and that arise from the activity of a DoD Component, when there is no other settlement authority specifically provided by law.

(iii) 10 U.S.C. 2575, 10 U.S.C. 2771, 24 U.S.C. 420, 10 U.S.C. 4712, 10 U.S.C. 9712, 37 U.S.C. 554, and 32 U.S.C. 714. Appendix B to this part describes these claims.

(2) The Director of the Office of Personnel Management for requests involving claims for civilian employees' compensation and leave.

(3) The Administrator of General Services for requests involving claims for civilian employees' travel, transportation, and relocation expenses.

(c) *Where to Submit a Request.* All requests described in paragraph (b)(1) of this Appendix and all other requests arising from the activity of a DoD Component (even if addressed to an official outside the Department of Defense) must be sent through the General Counsel of the Component concerned to the following address: General Counsel, Department of Defense, 1600 Defense Pentagon, Washington, DC 20301–1600.

(d) *Content of a Request.* Requests for an advance decision must:

(1) Specifically request an advance decision pursuant to 31 U.S.C. 3529;

(2) Describe all the relevant facts;

(3) Explain the reasons (both factual and legal) the requester considers the proposed payment to be questionable;

(4) Have attached vouchers, if any, and copies of all other relevant documents relating to the proposed payment;

(5) Have attached a legal memorandum from the General Counsel of the Component concerned that discusses the legality of the proposed payment under the circumstances presented in the request; and

(6) Comply with any other requirements established by the Director of the Office of Personnel Management or the Administrator of General Services.

(e) *Advance Decisions.* The GC, DoD must take action under paragraphs (e)(1), (e)(2), or (e)(3) of this Appendix, whichever applies.

(1) If the request is described in paragraph (b)(1) of this Appendix, the GC, DoD must review the request and issue an advance decision, unless the GC, DoD elects to proceed under paragraph (e)(3) of this Appendix.

(i) The GC, DoD must send the decision, through the General Counsel of the Component concerned, to the requester, and must send a copy of the decision to the Director, DOHA for publication according to Appendix A to this part, paragraph (f).

(ii) The decision is controlling in the case; the reliance of certifying and disbursing officials on it in their disposition of the case is evidence that those officials have exercised due diligence in the performance of their duties.

(iii) An advance decision is precedent in similar claims under this part unless otherwise stated in the decision.

(2) If the request is not described in paragraph (b)(1) of this Appendix, the GC, DoD must review the request and either:

(i) Forward the request to the appropriate advance decision authority and notify the requester of that action; or

(ii) Return the request, through the General Counsel of the Component concerned, to the requester, with a memorandum explaining that under existing legal authorities a request for an advance decision is not necessary. After considering the memorandum, the requester may resubmit the request, through the General Counsel of the Component concerned, to the GC, DoD. The GC, DoD must forward the request to the appropriate advance decision authority, and notify the requester of that action.

(3) If the request is described in paragraph (b)(1) of this Appendix, and the claim is for not more than \$250, the GC, DoD may refer the request to the General Counsel, Defense Finance and Accounting Service (DFAS). The General Counsel, DFAS, shall review the request and issue an advance decision.

(i) The General Counsel, DFAS, must send the decision, through the General Counsel of the Component concerned, to the requester, and must send a copy of the decision to the GC, DoD.

Office of the Secretary of Defense

§ 283.5

(ii) The decision is controlling in the case; the reliance of certifying and disbursing officials on it in their disposition of the case is evidence that those officials have exercised due diligence in the performance of their duties.

(iii) An advance decision issued by the General Counsel, DFAS, under this paragraph is not precedent in similar claims under this part.

PART 283—WAIVER OF DEBTS RESULTING FROM ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES

Sec.

283.1 Purpose.

283.2 Applicability and scope.

283.3 Definitions.

283.4 Policy.

283.5 Responsibilities.

AUTHORITY: 10 U.S.C. 2575, 2771, 4712, 9712; 24 U.S.C. 420; 31 U.S.C. 3529, 3702; 32 U.S.C. 714; 37 U.S.C. 554.

SOURCE: 71 FR 57427, Sept. 29, 2006, unless otherwise noted.

§ 283.1 Purpose.

This part establishes policy and assigns responsibilities for considering applications for the waiver of debts resulting from erroneous payments of pay and allowances (including travel and transportation allowances) to or on behalf of members of the Uniformed Services and civilian DoD employees under 10 U.S.C. 2774, 32 U.S.C. 716, 5 U.S.C. 5584.

§ 283.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the “DoD Components”).

(b) The Coast Guard, when it is not operating as a Service in the Navy under the agreement with the Department of Homeland Security, and the Commissioned Corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administra-

tion (NOAA) under agreements with the Departments of Health and Human Services and Commerce (hereafter referred to collectively as the “non-DoD Components”).

§ 283.3 Definitions.

Debt. An amount an individual owes the Government as the result of erroneous payments of pay and allowances (including travel and transportation allowances) to or on behalf of members of the Uniformed Services or civilian DoD employees.

Erroneous Payment. A payment that is not in strict conformity with applicable laws or regulations.

Uniformed Services. The Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, and the Commissioned Corps of the PHS and the NOAA.

Waiver Application. A request that the United States relinquishes its claim against an individual for a debt resulting from erroneous payments of pay or allowances (including travel and transportation allowances) under 10 U.S.C. 2774, 32 U.S.C. 716, or 5 U.S.C. 5584.

§ 283.4 Policy.

It is DoD policy that:

(a) The officials designated in this part exercise waiver authority that, by statute or delegation, is vested in the Department of Defense.

(b) Waiver applications shall be processed in accordance with all pertinent statutes and regulations, and after consideration of other relevant authorities.

§ 283.5 Responsibilities.

(a) The *General Counsel of the Department of Defense* shall:

(1) If the aggregate amount of the debt is more than \$1,500, deny or grant all or part of a waiver application.

(2) Decide appeals in accordance with procedures promulgated under paragraph (a)(3) of this section.

(3) Develop overall waiver policies and promulgate procedures for considering waiver applications, including an initial determination process and a process to appeal an initial determination.

(b) The *Heads of the DoD Components* shall: